

If a taxpayer pays an amount of tax under the Retailers' Occupation Tax that is not due, either as a result of a mistake of fact or an error of law, the taxpayer may file a claim for credit with the Department. No credit shall be given the taxpayer unless the taxpayer shows that he or she has borne the burden of the tax or has unconditionally repaid the amount of the tax to the purchaser from whom it was collected. See 86 Ill. Adm. Code 130.1501. (This is a GIL).

June 21, 2001

Dear Xxxxx:

This letter is in response to your letter dated April 9, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

Our firm has recently completed an examination of purchase records for the above referenced taxpayer. Invoices were found where Illinois Sales Tax was paid on items that were purchased for resale and/or used in their manufacturing process, which are tax exempt per Chapter I, Section 130.330 or 130.2070 of the Illinois Administrative Code.

We requested a sales tax refund from AAA. We received a response from BBB (copy attached) indicating that AAA is no longer in business.

I have sent an Email to the Illinois Department of Revenue web site (copy attached) asking how to obtain the refund from the State of Illinois. The only suggestion that PERSON could make is to write to your department explaining the situation and asking for a refund. She told me that there is nothing in the procedures covering this situation but it doesn't seem right that there is no way to recover.

I am enclosing a list of invoices where sales tax was paid in error as well as copies of the invoices. An Illinois Sales & Use Tax Certificate of Exemption is included with this letter along with a Power Of Attorney allowing me to represent them in this matter.

If the refund is approved please make the check payable to XXX and mailed **C/O ZZZ** at the post office box shown above.

**If there should be any questions, please feel free to contact me.** Your prompt attention and cooperation in this matter is appreciated.

## DEPARTMENT'S RESPONSE:

If a taxpayer pays an amount of tax under the Retailers' Occupation Tax Act that is not due, either as a result of a mistake of fact or an error of law, the taxpayer may file a claim for credit with the Department. See the enclosed copy of 86 Ill. Adm. Code 130.1501. Please note that only persons who have actually paid tax to the Department can file a claim for credit. No credit shall be given the taxpayer unless the taxpayer shows that he or she has borne the burden of the tax or has unconditionally repaid the amount of the tax to the purchaser from whom it was collected. In other words, if a purchaser has paid tax to his supplier, only that supplier/retailer can file a claim for credit.

The supplier must first refund tax money paid by the purchaser before proceeding with the claim. Once the supplier has done this, he or she must apply for the credit in the manner described in the regulation. Suppliers/retailers are not required by law to apply for such credits; rather, this procedure is voluntary. Whether or not the supplier refunds the tax paid and files a claim for credit with the Department is a private matter between the supplier and the purchaser.

In the scenario described in your letter, only AAA can file for a claim for credit or refund. AAA's customers cannot file claims for credit or refund directly with the Department based upon tax that was paid to AAA. This may not appear to be equitable, but no mechanism exists under Illinois sales tax laws for customers to make such claims directly with the Department unless the customer is the one that remitted the tax directly to the Department.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton  
Associate Counsel

TDC:msk  
Enc.